

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONNELLY CORPORATION,
a/k/a MAGNA DONNELLY,

Plaintiff,

Case No. 05-74444

v.

HONORABLE ARTHUR J. TARNOW
MAGISTRATE JUDGE STEVEN PEPE

GUARDIAN INDUSTRIES CORP.,
GUARDIAN AUTOMOTIVE CORPORATION,
GUARDIAN AUTOMOTIVE PRODUCTS, INC.,
GUARDIAN INDUSTRIES DISTRIBUTION
CENTER, INC., and GUARDIAN GLASS COMPANY,

Defendants.

/

**PROTECTIVE ORDER
AND
ORDER GRANTING DEFENDANTS' AUGUST 22 MOTION (DKT. #183)**

On August 22, 2007, Defendants filed a motion for a protective order to prevent Plaintiff from taking the deposition of Chris DeFrayne of Dow Automotive until after such time as the Court renders a decision on Defendants' pending motion to stay this litigation (Dkt. #183). Plaintiff's counsel submitted by fax a responsive pleading. Defendants' motion was referred for hearing and determination (Dkt. #184). On August 23, 2007, a telephonic hearing was held on Defendants' motion at which all unresolved issues were heard. For the reasons stated on the record and indicated below, Defendants' motion is **GRANTED** and this Protective Order is entered to prevent Plaintiff from taking the deposition of Mr. DeFrayne on August 29, 2007,

until such time as the Court renders its decision on Defendant's motion to stay this litigation.

At a June 13, 2007, hearing held on Plaintiff's motion for contempt and Defendants' motion for stay it was anticipated that both parties had identified all discovery that the parties agreed was relevant and should proceed prior to a decision on Defendants' motion to stay. The Court's June 15, 2007, Order, specifically identified said discover (Dkt. #128). While the implication was that neither party would proceed with additional discovery until the Court ruled on Defendants' motion to stay, Plaintiff noticed Mr. DeFrayne for an August 22, 2007, deposition.¹ At the hearing on the present motion, the Court indicated that it intended to issue an order granting Defendants' motion to stay. It was also determined that the deposition of Mr. DeFrayne can be postponed until such time that the stay is lifted.

Accordingly, Plaintiff shall not take the deposition of Mr. DeFrayne until such time as the Court lifts the stay on this litigation.

The parties to this action may object to and seek review of this Order, within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Because the present matter concerning Mr. DeFrayne's deposition is closely related to the pending motion to stay, Plaintiff may also preserve its right to object until such time as an order is issued on Defendants' motion to stay. In the event Plaintiff preserves its right to object until said time, the objection period for this Order will run contemporaneously with the 10 day objection period for the order handling Defendants' motion to stay. Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this

¹ Plaintiff subsequently agreed to postpone that deposition to August 29, 2007.

Magistrate Judge. Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than twenty (20) pages in length unless by motion and order such page limit is extended by the Court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

SO ORDERED.

Date: August 24, 2007
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2007, I electronically filed the foregoing paper with the Clerk Court using the ECF system which will send electronic notification to the following: Dean W. Amburn, Patrice S. Arend, Shuaib Atique, Peter M. Falkenstein, Jeffrey G. Heuer, Kristopher K. Hullibarger, Patrick M. McCarthy, Jeffrey A. Sadowski and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: not applicable

s/ James P. Peltier
James P. Peltier
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